

REMARKS

The Office Action dated May 27, 2008, and the patents and publications cited therein have been carefully reviewed, and in view of the above changes and following remarks reconsideration and allowance of all the claims pending in the application are respectfully requested.

Claims 1-7, 9-18 and 20-22 stand rejected. By this Response, claims 1-7, 9-18 and 20-22 remain pending.

The Rejection Under 35 U.S.C. § 103(b) Over Watt In View Of Sheets

Claims 1-7 and 12-18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt, U.S. Patent Application Publication No. 2003/0126202 A1, further in view of Sheets et al. (Sheets), U.S. Patent No. 6,819,905.

Applicants respectfully traverse the rejection of claims 1-7 and 12-18 as unpatentable over Watt in view of Sheets. Applicants respectfully submit that the subject matter according to any of claims 1-7 and 12-18 is patentable over Watt in view of Sheets. In particular, Applicants respectfully submits that the Examiner has not presented a convincing line of reasoning as to why an artisan would have found the subject matter of claims 1-7 and 12-18 to have been obvious in light of the teachings of Watt and Sheets.

“To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). (See, also, MPEP §§ 706.02(j) and 2144.)

In the present rejection, the Examiner does not state that either Watt or Sheets expressly or impliedly suggest the subject matter of claims 1-7 and 12-18. Consequently, in order to support the present rejection, the Examiner’s line of reasoning must be convincing as to why the

artisan would have found the claimed invention to have been obvious in light of the teachings of Watt and Sheets.

The Examiner's stated line of reasoning relating to both independent claims 1 and 12 is (see page 5, lines 12-20, and page 13, lines 3-11, of the Office Action dated May 27, 2008):

"Both Watts and Sheets are within the same field of endeavor as the application, namely dynamic allocation of servers. Watts suggests configuring images associated with a user. Sheets suggests pre-configuring at least one identified server image with data and state information associated with a user. It would have been obvious to apply Sheets disclosure to Watts to improve security by keeping the data separate from each user, and further to provide a method of indicating states of servers in order to improve allocation techniques. Therefore [sic], improving performance of server allocation as a whole, and further improving security as the unique data can be kept separate by precluding intentional or unintentional access to data between different customer accounts."

Applicants respectfully submit that the major premise of the Examiner's syllogism (i.e., the Examiner's line of reasoning) supporting the present rejection is still that "Watts suggests configuring images associated with a user." Applicants respectfully submit that the minor premise of the syllogism is still "Sheets suggests pre-configuring at least one identified server image with data and state information associated with a user." The conclusion of the Examiner's syllogism is still:

"It would have been obvious to apply Sheets disclosure to Watts to improve security by keeping the data separate from each user, and further to provide a method of indicating states of servers in order to improve allocation techniques. Therefore [sic], improving performance of server allocation as a whole, and further improving security as the unique data can be kept separate by precluding intentional or unintentional access to data between different customer accounts."

Applicants respectfully submit that the Examiner's conclusion still does not follow from the two premises used by the Examiner. Applicants still respectfully submit that it would seem

that if the Examiner's syllogism supporting the present rejection were proper, the conclusion would relate to something like configuring images associated with a user or pre-configuring a server image with data and state information associated with a user because both the major and minor premises relate to configuring or pre-configuring images. Instead, the Examiner's conclusion relates to improving security by keeping the data separate from each user, improving allocation techniques, improving performance of server allocation as a whole, and improving security by precluding intentional or unintentional access to data between different customer accounts. Thus, the Examiner's conclusion simply does not follow from the stated major and minor premises.

Applicants also respectfully submit that for the Examiner to assert at page 25, lines 1-4, of the Office Action dated May 27, 2008, that "improving securing by keeping the data separate from each user, and further to provide a method of indicating states of servers in order to improve allocation techniques would be a proper rationale for combining Watt and Sheets" does not cause the conclusion of the Examiner's syllogism to logically follow from the Examiner's major and minor premises. As previously mentioned, the conclusion should relate to something like configuring images associated with a user or pre-configuring a server image with data and state information associated with a user because both the major and minor premises relate to configuring or pre-configuring images.

Regarding the Examiner's minor premise, Applicants note that the Examiner has cited several portions of Sheets as an apparent basis for the minor premise of the syllogism. In particular, the Examiner cites column 11, lines 11-14, column 15, lines 8-17 and column 7, lines 1-5, of Sheets as disclosing "pre-configuring at least one identified server image with data and state information associated with a user." Looking closer, column 11, lines 8-14, of Sheets discloses that:

"When a reallocated server 46' is rebooted, its pointers have been reset by the engine group manager 48 to point to the boot image software and configuration files for the second administrative group 52-b, instead of the boot image software and configuration files for the first administrative group 52-a."

In view of this cited portion of Sheets, Applicants respectfully submit that it is plain that the Examiner has omitted a key aspect of the Sheets disclosure when asserting that Sheets “discloses boot image software and configuration files for the second administrative group, instead of the boot image software and configuration files for the first administrative group.” In particular, the Examiner omits the fact that Sheets discloses that pointers are reset to point to boot image software and configuration files. Applicants respectfully submit that resetting pointers to point to boot image software and configuration files is not pre-configuring at least one identified master storage image with data and state information that is associated with a system user, as set forth in claims 1 and 12.

Continuing with the close look at the Examiner’s cited support, Applicants respectfully submit that the Examiner still mischaracterizes the disclosure of Sheets at column 15, lines 8-17, by continuing to morph the term “reconfiguring” to the term “preconfiguring.” Applicants still respectfully submit that, in actuality, column 15, lines 8-17, of Sheets states:

“One of the significant advantages of the present invention is that the process of reconfiguring servers from one administrative group 52-a to a second administrative group 52-b will wipe clean all of the state associated with a particular customer account for the first administrative group from the reallocated server 46' before that server is brought into service as part of the second administrative group 52-b. This provides a natural and very efficient security mechanism for precluding intentional or unintentional access to data between different customer accounts.”

Applicants still respectfully submit that nothing in this cited portion of Sheets refers to “preconfiguring.” Moreover, Applicants respectfully submit that the Examiner’s assertion at page 24, lines 18-19, of the Office Action dated May 27, 2008, that “reconfiguring the server for the second admin group from the first admin group, Sheets must pre-configure the second admin group” (emphasis added) only makes sense when the Sheets pointers that are reset to point to boot image software and configuration files are ignored. Applicants respectfully submit that resetting pointers to point to boot image software and configuration files is not pre-configuring at

least one identified master storage image with data and state information that is associated with a system user, as set forth in claims 1 and 12.

Thus, Applicants respectfully submit that the Examiner's stated minor premise does not logically follow from the portions of Sheets on which the Examiner relies. Consequently, Applicants respectfully submit that not only is the Examiner's conclusion to the syllogism still faulty, but the minor premise of the syllogism is still without basis, thereby making unconvincing the Examiner's line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Regarding the Examiner's statements relating to improving security and relating to a natural and very efficient security mechanism for precluding intentional or unintentional access to data between different customer accounts, Applicants still respectfully submit that Watt discloses security considerations that would cause one of ordinary skill in the art to not consider the disclosure of Sheets for producing any "improvement" in the Watt invention relating to security. Applicants respectfully request that in the next Communication the Examiner explain why one of skill in the art would conclude that the portions of Watt cited above (i.e., paragraphs [0020] and [0051]) provide an insufficient security mechanism and how the techniques of Sheets improve security and are a natural and very efficient security mechanism for precluding intentional or unintentional access to data between different customer accounts. In particular, paragraph [0020] of Watt discloses that the Watt invention provides improved infrastructure security and that "[m]any network security issues are eliminated by automatically configuring the network infrastructure when a server is provisioned *to restrict access to just those resources within the data center that the server needs to perform its function.*" (Emphasis added.) In view of this disclosure by Watt, Applicants respectfully query specifically how does Sheets improve security over Watt?

Further, paragraph [0051] of Watt discloses that infrastructure controller 202 is responsible for configuring the network infrastructure 214 and 216 surrounding a server *to provide secure, limited access to those resources required by the server and its applications,*" and "configuring all switch ports connected to the server to ensure that the server and its

applications have access to the network resources that they need, and *to prevent them from accessing any restricted resources that they are not authorized to access.*” (Emphasis added.) In view of this disclosure by Watt, Applicants respectfully query specifically how does Sheets improve security over Watt?

Thus, in view of the Watt disclosure relating to security, Applicants still respectfully submit that one of ordinary skill in the art would have no reason to “improve” the security of Watt by combining Watt with the Examiner’s selected portions of Sheets other than through impermissible hindsight based on Applicants’ disclosure. Applicants respectfully submit that the Examiner is still apparently ignoring the entire disclosure by Watt. Moreover the Examiner’s conclusion and subsequent statements regarding the present rejection simply provide no advantages to the Watt invention in regard to security and preventing access to any restricted resources that a user is not authorized to access. Applicants respectfully submit that if the Examiner does not address the issues raised by Applicants relating to the motivation for combining Watt and Sheets based on security, Applicants will conclude that the Examiner concedes this point and that the Examiner is using impermissible hindsight to combine Watt and Sheets.

Regarding the Examiner’s assertion that Applicants’ arguments suggest “that the cited references of claims 1-7 and 12-18 are non-combinable” (see Office Action dated May 27, 2008, page 23, lines 14-15), Applicants respectfully submit that the Examiner is missing the point being made. That is, Applicants’ demonstration that the Examiner’s line of reasoning is unconvincing proves that an artisan would not have found the claimed subject matter to have been obvious in light of the teachings of Watt and Sheets, not that Watt and Sheets are non-combinable. Moreover, the Examiner’s proffered motivation for combining Watt and Sheets, i.e., for improved security, is suspect because the Examiner has not addressed the issues raised by Applicants relating to one skilled in the art not recognizing any improvement in security.

Applicants respectfully submit that regardless whether Watt and/or Sheets are within Applicants’ field of endeavor, Applicants respectfully submit that the Examiner has mischaracterized Sheets because Sheets does not disclose or suggest “preconfiguring at least one

identified server image with data and state information associated with a user.” At best, Sheets discloses “reconfiguring at least one identified server image with data and state information associated with a user” (see Sheets, column 15, lines 8-17) by resetting pointers “to point to the boot image software and configuration files for the second administrative group 52-b, instead of the boot image software and configuration files for the first administrative group 52-a” (see Sheets, column 11, lines 8-14).

Accordingly, independent claims 1 and 12 are allowable over Watt in view of Sheets. It follows that claims 2-7 and 13-18, which respectively incorporate the features of claims 1 and 12, are each allowable over Watt in view of Sheets for at least the same reasons that their respective base claims are considered allowable over Watt in view of Sheets.

Thus, Applicants respectfully submit that it is still only by impermissible hindsight in combination with a continued unconvincing line of reasoning that the Examiner is able to reject claims 1-7 and 12-18 based on the combination of Watt and Sheets. The Examiner does not state that either Watt or Sheets expressly or impliedly suggest the claimed subject matter. Moreover, the Examiner has not presented a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of Watt and Sheets. It is still only by using Applicants’ disclosure as a template that the Examiner is able to select particular features of Watt and Sheets through a hindsight reconstruction of Applicants’ claims to make the rejection.

Consequently, Applicants respectfully request that the Examiner withdraw this rejection and allow claims 1-7 and 12-18.

The Rejection Under 35 U.S.C. § 103(a) Over Watt In View of MSDN

Claims 9 and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt in view of Microsoft Developer Network CD (MSDN), CD-Rom 1996 April C.1.

Applicants respectfully traverse this rejection. Applicants respectfully submit that the subject matter according to either of claims 9 and 20 is patentable over Watt in view of MSDN. In particular, Applicants respectfully submits that the Examiner has not presented a convincing

line of reasoning as to why an artisan would have found the subject matter of claims 9 and 20 to have been obvious in light of the teachings of Watt and MSDN.

“To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). (See, also, MPEP §§ 706.02(j) and 2144.)

In the present rejection, the Examiner does not state that either Watt or MSDN expressly or impliedly suggest the subject matter of independent claims 9 and 20. Consequently, in order to support the present rejection, the Examiner’s line of reasoning must be convincing as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of Watt and MSDN.

The Examiner’s line of reasoning for both independent claims 9 and 20 relating to MSDN is that MSDN discloses the concept of “allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user.” Specifically, at page 16, lines 4-11, and page 19, lines 9-17, of the Office Action dated May 27, 2008, the Examiner asserts:

“On the hand, MSDN page 24 discloses a master copy of a file without placing a local copy of the file in your working folder. Further disclosing to edit a file, you must check it out of the visual sourcesafe database. The check out command creates a writable copy of the file from the project in your working folder. A check out is generally exclusive, that is no one else can check out a file that you have checked out. Visual Sourcesafe indicates who has a file checked out in the user column of the file pane. Accordingly, disclosing writable data portion (creates writable copy) and allocating a separate writable data volume of the writable data portion of the selected master storage image (master copy) to each server (creates a writeable copy) allocated to the system user (you).”

Applicants respectfully note that in order for the Examiner to conclude that that MSDN “discloses a master copy of a file without placing a local copy of the file in your working folder” the Examiner ignores that MSDN states that “You can view the master copy of a file without placing a local copy of the file in your working folder.” (See MSDN, page 24, line 17, underlining supplied) By ignoring the word “view,” the Examiner can leap to the conclusion that MSDN discloses allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user.

Applicants respectfully submit that when the word “view” is not ignored from the MSDN disclosure, the MSDN disclosure can be likened to really nothing more than the concept of a restaurant patron viewing particular food being cooked in a kitchen of the restaurant, ordering the particular food for eating, and then being served the particular food knowing that someone else will not be eating the food served to you. Any patron can view the food while it is being prepared, and any patron can order the food for eating, but when the food is ordered and served, the served food is the patron’s food alone. Applicants respectfully submit that if the word “view” is not omitted from the Examiner’s line of reasoning, the proper conclusion to the Examiner’s line of reasoning is:

“a master copy of a file can be viewed in the Visual SourceSafe database without placing a local copy of the file in a working folder, and when the file is desired to be edited, the file can be checked out and a writeable copy be placed in the working folder so that no one else can check out of file that is currently checked out.”

The proper conclusion is part of what the Examiner states, but the Examiner then leaps to the conclusion that MSDN discloses allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user. Applicants respectfully submit that in order to the Examiner to arrive at the tendered conclusion, the Examiner is using nothing but impermissible hindsight. MSDN discloses nothing about allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user

Accordingly, Applicants respectfully submit that regardless of the Examiner's proffered motivation to combine Watt and MSDN, the combination does not properly result in the concept of allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user, as set forth in claims 9 and 20.

Applicants respectfully submit that it is only by impermissible hindsight and an unconvincing line of reasoning that the Examiner is able to reject claims 9 and 20 based on the proffered combination of Watt and MSDN. The Examiner does not state that either Watt or MSDN expressly or impliedly suggest the claimed subject matter. Moreover, the Examiner has not presented a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of Watt and MSDN. It is only by using Applicants' disclosure as a template that the Examiner is able to select particular features of Watt and MSDN through a hindsight reconstruction of Applicants' claims to make the rejection.

Consequently, Applicants respectfully request that the Examiner withdraw this rejection and allow claims 9 and 20.

**The Rejection Under 35 U.S.C. § 103(a) Over Watt
In View of MSDN And Further In View Of Sheets**

Claims 10, 11, 21 and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt in view of MSDN, and further in view of Sheets.

Applicants respectfully note that the stated rejection is "Claims 10-11 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watt (US Patent Application Publication 200310126202; hereafter Watt) further in view of Microsoft Developer Network CD, CD-Rom 1996 April. C.1 (hereafter MSDN)." (See Office Action dated May 27, 2008, page 20, lines 5-8.) Applicants also respectfully note that further down page 20, the Examiner relies on Sheets. Thus, Applicants will consider the rejection to be properly stated as "Claims 10, 11, 21 and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt in view of MSDN, and further in view of Sheets.

Applicants still respectfully traverse this rejection. Applicants respectfully submit that the subject matter according to any of claims 10, 11, 21 and 22 is patentable over Watt in view of MSDN, and further in view of Sheets. In particular, Applicants respectfully submits that the respective syllogisms that the Examiner uses as a basis for combining Watt, MSDN and Sheets for rejecting claims 10, 11, 21 and 22 do not cure the deficiencies of the line of reasoning used by the Examiner for rejecting claims 9 and 20, the respective base claims of claims 10 and 11, and claims 21 and 22.

Consequently, Applicants respectfully request that the Examiner withdraw this rejection and allow claims 10, 11, 21 and 22.

Applicants note that additional patentable distinctions between Watt, Sheets and MSDN and the rejected claims exist; however, the foregoing is believed sufficient to address the Examiner's rejections. Additionally, failure of Applicants to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is believed not necessary to respond to every position taken by the Examiner with which Applicants do not agree.

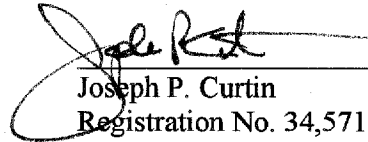
CONCLUSION

In view of the above amendments and arguments, it is urged that the present application is now in condition for allowance. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

It is requested that this application be passed to issue with claims 1-7, 9-18 and 20-22.

Respectfully submitted,

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